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SENATE BILL 410

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Phil A. Griego

AN ACT

RELATING TO LOCAL GOVERNMENTS; PROVIDING THAT COMPREHENSIVE  
PLANS BY ZONING AUTHORITIES SHALL BE A GUIDE FOR ADOPTING  
ZONING RULES AND NOT MANDATORY; PRESCRIBING ELEMENTS FOR COUNTY  
COMPREHENSIVE PLANS AND PROCEDURES FOR THE ADOPTION OF COUNTY  
COMPREHENSIVE PLANS; REQUIRING CERTAIN ELEMENTS IN  
COMPREHENSIVE PLANS FOR COUNTIES THAT ADOPT SUBDIVISION  
REGULATIONS MORE STRICT THAN THOSE IN THE NEW MEXICO  
SUBDIVISION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 3-21-5 NMSA 1978 (being Laws 1965,  
Chapter 300, Section 14-20-3, as amended) is amended to read:

"3-21-5. ZONING--CONFORMANCE TO COMPREHENSIVE PLAN.--

A. The regulations and restrictions of the county  
or municipal zoning authority ~~[are to be in accordance with a~~

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1 ~~comprehensive plan and~~ shall be designed to:

- 2 (1) lessen congestion in the streets and
- 3 public ways;
- 4 (2) secure safety from fire, flood waters,
- 5 panic and other dangers;
- 6 (3) promote health and the general welfare;
- 7 (4) provide adequate light and air;
- 8 (5) prevent the overcrowding of land;
- 9 (6) avoid undue concentration of population;
- 10 (7) facilitate adequate provision for
- 11 transportation, water, sewerage, schools, parks and other
- 12 public requirements; and
- 13 (8) control and abate the unsightly use of
- 14 buildings or land.

15 B. The zoning authority in adopting the regulations  
16 and restrictions shall be guided by a comprehensive plan that  
17 shall be an advisory document only and not binding on the  
18 zoning authority. A county comprehensive plan shall be adopted  
19 pursuant to the procedures of Section 3-21-5.2 NMSA 1978 and  
20 contain the elements specified in Section 3-21-5.1 NMSA 1978.

21 ~~[B.]~~ C. The zoning authority in adopting  
22 regulations and restrictions shall give reasonable  
23 consideration, among other things, to the character of the  
24 district and its peculiar suitability for particular uses and  
25 to conserving the value of buildings and land and encouraging

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1 the most appropriate use of land throughout its jurisdiction. "

2 Section 2. A new Section 3-21-5.1 NMSA 1978 is enacted to  
3 read:

4 "3-21-5.1. [NEW MATERIAL] COUNTY COMPREHENSIVE PLAN--  
5 ELEMENTS. --

6 A. A county comprehensive plan shall be based upon  
7 a planning horizon of twenty years and shall include the  
8 following:

9 (1) a land use element that meets the  
10 requirements of Subsection B of this section;

11 (2) a transportation element that meets the  
12 requirements of Subsection C of this section;

13 (3) a community facilities element that meets  
14 the requirements of Subsection D of this section;

15 (4) a public facilities element that meets the  
16 requirements of Subsection E of this section;

17 (5) an economic development element that meets  
18 the requirements of Subsection F of this section;

19 (6) a housing element that meets the  
20 requirements of Subsection G of this section; and

21 (7) an open space, recreation and natural  
22 resources element that meets the requirements of Subsection H  
23 of this section.

24 B. A land use element shall include:

25 (1) an analysis and mapping of existing land

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1 patterns and an inventory of the amount, type and intensity of  
2 uses by land category;

3 (2) an analysis of trends in the supply and  
4 demand of land by land use category, including a projection of  
5 the distribution, location and extent of future land uses by  
6 land use category over a twenty-year period;

7 (3) goals, objectives and policies that  
8 address maintaining a broad variety of land uses, including the  
9 range of uses existing in the county when the plan is adopted  
10 or amended; and

11 (4) specific actions and incentives that the  
12 county may use to promote planned development or otherwise  
13 encourage certain identified development patterns and the  
14 locations where such development patterns should be encouraged.

15 C. A transportation element shall include:

16 (1) description and assessment of the  
17 location, type, capacity and condition of existing  
18 transportation facilities, such as freeways, arterial and  
19 collector streets or other modes of transportation as may be  
20 appropriate;

21 (2) goals, objectives and policies for  
22 encouraging safe, convenient, efficient and economical  
23 transportation and a description of proposed levels of service  
24 and funding mechanisms; and

25 (3) a description and assessment of proposed

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1 location, type and capacity of proposed transportation  
2 facilities designed to implement transportation goals,  
3 objectives and policies and a description of funding mechanisms  
4 that will be used to fund proposed transportation improvements.

5 D. A community facilities element shall include:

6 (1) a description, mapping and assessment  
7 of the type, capacity and condition, including deficiencies, of  
8 existing community facilities supporting existing land uses in  
9 the county;

10 (2) identification and mapping of community  
11 facilities that are necessary or desirable to support future  
12 land use patterns identified in the land use element;

13 (3) goals, objectives and policies for the  
14 distribution, location and efficient provision of community  
15 facilities, including a description of proposed levels of  
16 service; and

17 (4) a description of the actions that the  
18 county will take to implement the goals, objectives and  
19 policies of the community facilities element.

20 E. A public facilities element shall include:

21 (1) a description and assessment of the  
22 location, type, capacity and condition of existing public  
23 facilities and services, including emergency services, sewage,  
24 drainage, local utilities and other types of facilities;

25 (2) goals, objectives and policies for

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1 promoting the efficient provision of public services and  
2 facilities, including a description of proposed levels of  
3 service;

4 (3) a description and assessment of proposed  
5 facility expansion and improvements designed to support planned  
6 uses and implement public facility goals, objectives and  
7 policies;

8 (4) a capital improvements program that:

9 (a) identifies capital improvements  
10 needed to serve new development based on adopted levels of  
11 service standards;

12 (b) estimates costs of construction of  
13 capital improvements and the timing of construction, expansion  
14 or extension of the facilities; and

15 (c) describes proposed financing of  
16 capital improvements; and

17 (5) an analysis of the demand for water that  
18 will result from future growth projected in the plan, when  
19 added to existing uses, and how the demand for water that will  
20 result from future projected growth will be served by the water  
21 supplies or a plan to obtain additional necessary water  
22 supplies.

23 F. An economic development element shall include:

24 (1) a description of existing job composition  
25 and trends by industry and locational characteristics, such as

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1 access to transportation or proximity to natural or human  
2 resources, that influence the economic development potential of  
3 the county;

4 (2) goals, objectives and policies for  
5 promoting economic development; and

6 (3) a description of the actions that the  
7 county will take to implement economic development goals,  
8 objectives and policies.

9 G. A housing element shall include:

10 (1) an analysis of existing housing supply and  
11 demand and forecasted housing needs;

12 (2) goals, objectives and policies for the  
13 improvement of housing quality, variety and affordability and  
14 for provision of adequate sites for housing and housing  
15 opportunities for all segments of the community; and

16 (3) a description of the actions that will be  
17 taken to implement housing goals, objectives and policies.

18 H. An open space, recreation and natural resource  
19 element shall include:

20 (1) an inventory and description of existing  
21 open space areas and recreational resources and an analysis of  
22 forecasted open space and recreational needs;

23 (2) goals, objectives and policies for  
24 promoting integrated open space and recreational resources and  
25 policies for managing and protecting open space areas and

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1 resources;

2 (3) a description of the actions that will be  
3 taken to implement open space and recreational goals,  
4 objectives and policies; and

5 (4) an analysis of any anticipated effects of  
6 comprehensive plan elements on air quality, water quality or  
7 natural resources. "

8 Section 3. A new Section 3-21-5.2 NMSA 1978 is enacted to  
9 read:

10 "3-21-5.2. [NEW MATERIAL] COUNTY COMPREHENSIVE PLAN--  
11 PROCEDURES FOR ADOPTION AND AMENDMENT. --

12 A. The board of county commissioners shall  
13 establish, by ordinance, procedures for public participation in  
14 the preparation of the comprehensive plan that are designed to  
15 provide maximum opportunity for oral and written comments by  
16 the public on drafts of proposed plan elements, the proposed  
17 plan as a whole or any proposed amendment to an adopted plan.

18 B. Following preparation of a proposed  
19 comprehensive plan, or any proposed amendment to an adopted  
20 plan, the board of county commissioners shall hold at least two  
21 public hearings on the proposed comprehensive plan or  
22 amendment.

23 C. Notice of a public hearing on a proposed  
24 comprehensive plan or a proposed amendment to an adopted plan  
25 shall be by publication in a newspaper having general

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1 circulation within the county at least thirty days prior to the  
2 date of the hearing and shall include:

3 (1) the date, time and place of the public  
4 hearing;

5 (2) a description of the substance of the  
6 proposed plan or proposed amendment; and

7 (3) the location where the public may obtain  
8 copies of the proposed plan or amendment.

9 D. Following the close of the public hearing, and  
10 after consideration of all oral and written comments, the board  
11 of county commissioners may by a two-thirds' vote of the  
12 elected members of the board adopt a resolution approving the  
13 comprehensive plan or amendment, with such revisions from the  
14 proposed plan or amendment as it deems appropriate. "

15 Section 4. Section 1. Section 47-6-9 NMSA 1978 (being  
16 Laws 1973, Chapter 348, Section 9, as amended) is amended to  
17 read:

18 "47-6-9. SUBDIVISION REGULATION--COUNTY AUTHORITY.--

19 A. The board of county commissioners of each county  
20 shall regulate subdivisions within the county's boundaries. In  
21 regulating subdivisions, the board of county commissioners of  
22 each county shall adopt regulations setting forth the county's  
23 requirements for:

24 (1) preliminary and final subdivision plats,  
25 including their content and format;

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1 (2) quantifying the maximum annual water  
2 requirements of subdivisions, including water for indoor and  
3 outdoor domestic uses;

4 (3) assessing water availability to meet the  
5 maximum annual water requirements of subdivisions;

6 (4) water conservation measures;

7 (5) water of an acceptable quality for human  
8 consumption and for protecting the water supply from  
9 contamination;

10 (6) liquid waste disposal;

11 (7) solid waste disposal;

12 (8) legal access to each parcel;

13 (9) sufficient and adequate roads to each  
14 parcel, including ingress and egress for emergency vehicles;

15 (10) utility easements to each parcel;

16 (11) terrain management;

17 (12) phased development;

18 (13) protecting cultural properties,  
19 archaeological sites and unmarked burials, as required by the  
20 Cultural Properties Act;

21 (14) specific information to be contained in a  
22 subdivider's disclosure statement in addition to that required  
23 in Section 47-6-17 NMSA 1978;

24 (15) reasonable fees approximating the cost to  
25 the county of determining compliance with the New Mexico

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1 Subdivision Act and county subdivision regulations while  
2 passing upon subdivision plats;

3 (16) a summary procedure for reviewing certain  
4 type-three and all type-five subdivisions as provided in  
5 Section 47-6-11 NMSA 1978;

6 (17) recording all conveyances of parcels with  
7 the county clerk;

8 (18) financial security to assure the  
9 completion of all improvements that the subdivider proposes to  
10 build or to maintain;

11 (19) fencing subdivided land, where  
12 appropriate, in conformity with Section 77-16-1 NMSA 1978,  
13 which places the duty on the purchaser, lessee or other person  
14 acquiring an interest in the subdivided land to fence out  
15 livestock; and

16 (20) any other matter relating to subdivisions  
17 that the board of county commissioners feels is necessary to  
18 promote health, safety or the general welfare.

19 B. Subsection A of this section does not preempt  
20 the authority of any state agency to regulate or perform any  
21 activity that it is required or authorized by law to perform.

22 C. ~~[The following counties shall adopt regulations~~  
23 ~~pursuant to this section on or before July 1, 1996:~~

24 ~~Bernalillo, Dona Ana and Santa Fe.~~

25 ~~D. All remaining counties shall adopt regulations~~

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1 ~~pursuant to this section on or before July 1, 1997.~~

2 E.] Nothing in the New Mexico Subdivision Act shall  
3 be construed to limit the authority of counties to adopt  
4 subdivision regulations with requirements that are more  
5 stringent than the requirements set forth in the New Mexico  
6 Subdivision Act, provided that:

7 (1) the county has adopted a comprehensive  
8 plan in accordance with Section [3-21-5] 3-21-5.2 NMSA 1978  
9 ~~[and those regulations are consistent with such plan];~~

10 (2) the comprehensive plan contains goals,  
11 objectives and policies that identify and explain the need for  
12 requirements that are more stringent; and

13 (3) the more stringent regulations are  
14 specifically identified in the comprehensive plan as the  
15 minimum regulations necessary to implement the goals,  
16 objectives and policies of the comprehensive plan. "